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PART III

Notifications by High Court, Advertisement, Notices and Change of Name etc.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 22nd September, 2023

No. 159 Gaz.II(17).— In pursuance of the directions given by Hon'ble Supreme Court of India, in judgment dated 31.07.2023 passed in Criminal Appeal No. 2207 of 2023 arising out of SLP (Crl.) No. 3433 of 2023 titled as "Md. Asfak Alam Versus The State of Jharkhand & Anr.", following guidelines are framed by the High Court of Punjab and Haryana at Chandigarh to ensure that police officers do not arrest the accused unnecessarily and the Magistrates do not authorize detention casually and mechanically:

1. The law as laid down in the judgment titled as 'Arnesh Kumar versus State of Bihar and another' reported as (2014) 8 SCR 128 shall be strictly followed.
2. In terms of the judgment in Md. Asfak Alam (supra), the State Government shall instruct its police officers not to automatically arrest when a case under Section 498-A Indian Penal Code is registered but to satisfy themselves about the necessity for arrest under the parameters flowing from Section 41 of Code of Criminal Procedure, 1973.
3. All police officers will be provided with a check list containing specified sub-clauses under Section 41(1) (b) (ii) Code of Criminal Procedure, 1973.
4. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention.
5. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention.
6. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;
7. Notice of appearance in terms of Section 41-A of Code of Criminal Procedure, 1973 be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;
8. Failure to comply with the directions aforesaid apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction;

9. Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
10. The directions aforesaid shall not only apply to the case under Section 498-A of the Indian Penal Code or Section 4 of the Dowry Prohibition Act, 1961, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine.

All the Sessions Courts and all other Criminal Courts in the districts of the States of Punjab, Haryana and Union Territory, Chandigarh dealing with various offences shall strictly follow the above guidelines.

BY ORDER OF HON'BLE THE CHIEF JUSTICE.

(Sd.,)....,
Registrar General.